



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

SAMIR SAYEGH, MD

Respondent Name

AMERICAN ZURICH INSURANCE CO

MFDR Tracking Number

M4-14-1823-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

FEBRUARY 21, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Designated Doctor Examinations are billed according to DWC Rule 134.204 and in accordance with Labor Code 408.004, 408.0041, and 408.151."

Amount in Dispute: \$1,315.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This medical fee dispute concerns charges for an examination by Requestor on April 19, 2013. Carrier is processing payment for these services and will supplement this response with payment documentation."

Respondent's Supplemental Position Summary: "after re-audit, Coventry will stand by it's denial of the billed charges and no payment was issued."

Responses Submitted by: Flahive, Ogden & Latson.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 19, 2013	CPT Code 99456-W5-WP (X2) Designated Doctor Evaluation	\$800.00	\$650.00
	CPT Code 99456-W8-RE Return to Work Evaluation	\$500.00	\$500.00
	CPT Code 99456-73	\$15.00	\$0.00
TOTAL		\$1,315.00	\$1,150.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. 28 Texas Administrative Code §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports.
4. The services in dispute were reduced / denied by the respondent with the following reason codes:
 - 16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
 - 4-The procedure code is inconsistent with the modifier used or a required modifier is missing..

Issues

1. Is the requestor entitled to reimbursement for 99456-W5-WP?
2. Is the requestor entitled to reimbursement for 99456-RE-W8?
3. Is the requestor entitled to reimbursement for 99456-73?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed Designated Doctor Evaluation based upon reason code "16."

On the disputed date of service, the requestor billed CPT codes 99456-W5-WP.

- 28 Texas Administrative Code §134.204(i)(1)(A) states "The following shall apply to Designated Doctor Examinations. (1) Designated Doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041 and 408.151 and Division rules, and shall be billed and reimbursed as follows: (A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor"

A review of the submitted medical billing finds that the requestor billed modifier "W5" appended to CPT code 99456.

- 28 Texas Administrative Code §134.204(j)(3) states "The following applies for billing and reimbursement of an MMI evaluation. (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."

The requestor billed CPT code 99456 because the examination was performed by a designated doctor.

- Per 28 Texas Administrative Code §134.204(j)(4)(C)(iii) states "If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier "WP." Reimbursement shall be 100 percent of the total MAR."
- 28 Texas Administrative Code §134.204(n)(18) states "The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. The "WP" modifier is defined as "Whole Procedure--This modifier shall be added to the CPT code when both the professional and technical components of a procedure are performed by a single HCP."

A review of the requestor's billing finds that the "WP" modifier was appended to CPT code 99456 to designate that the provider had performed the MMI examination and the IR testing.

The maximum allowable reimbursement (MAR) for CPT code 99456-W5-WP is:

- 28 Texas Administrative Code §134.204(j)(1) states "Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows:
 - (1) The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR.
- 28 Texas Administrative Code §134.204(j)(4)(C) states "For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas."

- 28 Texas Administrative Code §134.204(j)(4)(C)(ii) states “The MAR for musculoskeletal body areas shall be as follows.
 (II) If full physical evaluation, with range of motion, is performed:
 (-a-) \$300 for the first musculoskeletal body area; and
 (-b-) \$150 for each additional musculoskeletal body area.”

The requestor billed for MMI/IR of two body areas. A review of the Designated Doctor report finds that a full evaluation with range of motion was performed on the left ankle; therefore, the MAR is \$300.00 per 28 Texas Administrative Code §134.204(j)(4)(C)(ii)(II)(a)(b). The documentation does not support an impairment rating of two body areas. The total allowable for the impairment rating is \$300.00.

Per 28 Texas Administrative Code §134.204(j)(3)(C) the requestor is due \$350.00 for the MMI evaluation.

The Division finds that the total allowable for the MMI/IR evaluation, CPT Code 99456-W5-WP is \$650.00. The respondent paid \$0.00. As a result, the requestor is entitled to reimbursement of \$650.00.

2. On the disputed date of service, the requestor also billed CPT code 99456-W8-RE.

- 28 Texas Administrative Code §134.204(i)(1)(E) indicates that modifier “W8” is billed for examination that determine the “Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section.”

A review of the submitted medical billing finds that the requestor supported billing 99456-W8-RE.

The MAR for CPT code 99456-W8-RE is:

- 28 Texas Administrative Code §134.204(k) states “The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier “RE.” In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.”

The requestor is due \$500.00 for the return to work examination.

3. On the disputed date of service, the requestor also billed CPT code 99456-73.

- 28 Texas Administrative Code §134.204 (l) states “The following shall apply to Work Status Reports. When billing for a Work Status Report that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section, refer to §129.5 of this title (relating to Work Status Reports).”
- 28 Texas Administrative Code §129.5(i)(1) states “Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code “99080” with modifier “73” shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section.”

The requestor did not bill for the work status report in accordance with 28 Texas Administrative Code §134.204 and §129.5, as a result, no reimbursement is recommended.

The Division finds that the total allowable for these examinations is \$1,150.00. The respondent paid \$0.00. As a result, the requestor is entitled to reimbursement of \$1,150.00.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,150.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,150.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	11/21/2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.